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SAFETY HOLDINGS, INC. dba SAMBASAFETY
8

9
10 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
11

12 RORY MOORE,) CASE NO. 5:22-cv-00668-JGB-KK
13 Plaintiff,) **ANSWER**
14 vs.)
15 SAFETY HOLDINGS, INC. dba)
16 SAMBASAFETY,)
17 Defendant.)
18)
19)

20
21 Defendant SAFETY HOLDINGS, INC. dba SAMBASAFETY
22 (“Defendant”) hereby answers the Complaint of Plaintiff RORY MOORE
23 (“Plaintiff”) as set forth below.

24 **JURISDICTION AND VENUE**

25 1. Defendant admits that the FCRA is a federal law. Defendant denies
26 violating the FCRA. Defendant lacks knowledge or information sufficient to form
27 a belief about the truth of the remaining allegations in Paragraph 1 of the Complaint,
28 which also constitute legal conclusions.

1 11. Defendant lacks knowledge or information sufficient to form a belief
2 about the truth of the allegations in Paragraph 11 of the Complaint.

3 12. Defendant lacks knowledge or information sufficient to form a belief
4 about the truth of the allegations in Paragraph 12 of the Complaint.

5 13. Defendant lacks knowledge or information sufficient to form a belief
6 about the truth of the allegations in Paragraph 13 of the Complaint.

7 14. Defendant lacks knowledge or information sufficient to form a belief
8 about the truth of the allegations in Paragraph 14 of the Complaint.

9 15. Defendant lacks knowledge or information sufficient to form a belief
10 about the truth of the allegations in Paragraph 15 of the Complaint. Defendant
11 denies that Uber drivers are classified as employees.

12 16. Defendant lacks knowledge or information sufficient to form a belief
13 about the truth of the allegations in Paragraph 16 of the Complaint.

14 17. Defendant lacks knowledge or information sufficient to form a belief
15 about the truth of the allegations in Paragraph 17 of the Complaint.

16 18. Defendant lacks knowledge or information sufficient to form a belief
17 about the truth of the allegations in Paragraph 18 of the Complaint.

18 19. Defendant lacks knowledge or information sufficient to form a belief
19 about the truth of the allegations in Paragraph 19 of the Complaint.

20 20. Defendant lacks knowledge or information sufficient to form a belief
21 about the truth of the allegations in Paragraph 20 of the Complaint.

22 21. Defendant lacks knowledge or information sufficient to form a belief
23 about the truth of the allegations in Paragraph 21 of the Complaint. The document
24 at issue is not attached to Plaintiff's Complaint and has been updated and/or
25 modified. Defendant further responds that the document speaks for itself, and
26 denies Plaintiff's allegations to the extent they are inconsistent with the document.

27 22. Defendant lacks knowledge or information sufficient to form a belief
28 about the truth of the allegations in Paragraph 22 of the Complaint. The document

1 at issue is not attached to Plaintiff's Complaint and has been updated and/or
2 modified. Defendant further responds that the document speaks for itself, and
3 denies Plaintiff's allegations to the extent they are inconsistent with the document.

4 23. Defendant lacks knowledge or information sufficient to form a belief
5 about the truth of the allegations in Paragraph 23 of the Complaint.

6 24. Defendant lacks knowledge or information sufficient to form a belief
7 about the truth of the allegations in Paragraph 24 of the Complaint. The document
8 at issue is not attached to Plaintiff's Complaint and has been updated and/or
9 modified. Defendant further responds that the document speaks for itself, and
10 denies Plaintiff's allegations to the extent they are inconsistent with the document.

11 25. Defendant lacks knowledge or information sufficient to form a belief
12 about the truth of the allegations in Paragraph 25 of the Complaint.

13 26. Defendant lacks knowledge or information sufficient to form a belief
14 about the truth of the allegations in Paragraph 26 of the Complaint.

15 27. Defendant lacks knowledge or information sufficient to form a belief
16 about the truth of the allegations in Paragraph 27 of the Complaint. Defendant
17 further responds that the document referenced in said Paragraph speaks for itself,
18 and denies Plaintiff's allegations to the extent they are inconsistent with the
19 document.

20 28. Defendant lacks knowledge or information sufficient to form a belief
21 about the truth of the allegations in Paragraph 28 of the Complaint.

22 29. Defendant lacks knowledge or information sufficient to form a belief
23 about the truth of the allegations in Paragraph 29 of the Complaint.

24 30. Defendant lacks knowledge or information sufficient to form a belief
25 about the truth of the allegations in Paragraph 30 of the Complaint.

26 31. Defendant lacks knowledge or information sufficient to form a belief
27 about the truth of the allegations in Paragraph 31 of the Complaint. Defendant
28 denies that Uber drivers are classified as employees.

1 32. Defendant lacks knowledge or information sufficient to form a belief
2 about the truth of the allegations in Paragraph 32 of the Complaint.

3 33. Defendant lacks knowledge or information sufficient to form a belief
4 about the truth of the allegations in Paragraph 33 of the Complaint.

5 34. Defendant lacks knowledge or information sufficient to form a belief
6 about the truth of the allegations in Paragraph 34 of the Complaint. Defendant
7 further responds that the document referenced in said Paragraph speaks for itself,
8 and denies Plaintiff's allegations to the extent they are inconsistent with the
9 document.

10 35. Defendant admits only that Plaintiff contacted Defendant on or about
11 March 7, 2022. Defendant lacks knowledge or information sufficient to form a
12 belief about the truth of the remaining allegations in Paragraph 35 of the Complaint.

13 36. Defendant lacks knowledge or information sufficient to form a belief
14 about the truth of the allegations in Paragraph 36 of the Complaint.

15 37. Defendant lacks knowledge or information sufficient to form a belief
16 about the truth of the allegations in Paragraph 37 of the Complaint. Defendant
17 denies that Uber drivers are classified as employees.

18 38. Defendant lacks knowledge or information sufficient to form a belief
19 about the truth of the allegations in Paragraph 38 of the Complaint. Defendant
20 further responds that the document referenced in said Paragraph speaks for itself,
21 and denies the allegations to the extent they are inconsistent with the document.

22 39. Defendant admits only that Plaintiff contacted Defendant on or about
23 March 10, 2022. Defendant lacks knowledge or information sufficient to form a
24 belief about the truth of the remaining allegations in Paragraph 39 of the Complaint.

25 40. Defendant lacks knowledge or information sufficient to form a belief
26 about the truth of the allegations in Paragraph 24 of the Complaint. Defendant
27 further responds that the document referenced in said Paragraph speaks for itself,
28 and denies the allegations to the extent they are inconsistent with the document.

1 41. Defendant lacks knowledge or information sufficient to form a belief
2 about the truth of the allegations in Paragraph 41 of the Complaint. Defendant
3 further responds that the document referenced in said Paragraph speaks for itself,
4 and denies the allegations to the extent they are inconsistent with the document.

5 42. Defendant lacks knowledge or information sufficient to form a belief
6 about the truth of the allegations in Paragraph 42 of the Complaint.

7 43. Defendant denies the allegations in Paragraph 43 of the Complaint.

8 44. Defendant lacks knowledge or information sufficient to form a belief
9 about the truth of the allegations in Paragraph 44 of the Complaint.

10 45. Defendant lacks knowledge or information sufficient to form a belief
11 about the truth of the allegations in Paragraph 45 of the Complaint.

12 46. Defendant lacks knowledge or information sufficient to form a belief
13 about the truth of the allegations in Paragraph 46 of the Complaint.

14 47. Defendant lacks knowledge or information sufficient to form a belief
15 about the truth of the allegations in Paragraph 47 of the Complaint.

16 48. Defendant denies the allegations in Paragraph 48 of the Complaint.

17 49. Defendant lacks knowledge or information sufficient to form a belief
18 about the truth of the allegations in Paragraph 49 of the Complaint.

19 50. Defendant lacks knowledge or information sufficient to form a belief
20 about the truth of the allegations in Paragraph 50 of the Complaint.

21 51. Defendant lacks knowledge or information sufficient to form a belief
22 about the truth of the allegations in Paragraph 51 of the Complaint.

23 52. Defendant lacks knowledge or information sufficient to form a belief
24 about the truth of the allegations in Paragraph 52 of the Complaint.

25 53. Defendant lacks knowledge or information sufficient to form a belief
26 about the truth of the allegations in Paragraph 53 of the Complaint. Defendant
27 further responds that the document referenced in said Paragraph speaks for itself,
28 and denies the allegations to the extent they are inconsistent with the document.

55. Defendant denies the allegations in Paragraph 55 of the Complaint.

57. Defendant lacks knowledge or information sufficient to form a belief the truth of the allegations in Paragraph 57 of the Complaint.

59. Defendant denies the allegations in Paragraph 59 of the Complaint.

61. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 61 of the Complaint.

63. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 63 of the Complaint.

65. Defendant denies the allegations in Paragraph 65 of the Complaint.

66. Defendant incorporates by reference its responses set forth in all Paragraphs above.

1 Defendant lacks knowledge or information sufficient to form a belief about the truth
2 of the allegations.

3 68. Defendant denies the allegations in Paragraph 68 of the Complaint.

4 69. Defendant lacks knowledge or information sufficient to form a belief
5 about the truth of the allegations in Paragraph 69 of the Complaint.

6 70. Defendant denies the allegations in Paragraph 70 of the Complaint.

7 71. Defendant denies the allegations in Paragraph 71 of the Complaint.

8 72. Defendant denies the implication in Paragraph 72 of the Complaint
9 that Defendant maintains “procedures that allow a driver’s license status to be
10 reported inaccurately in the face of contradictory evidence.” Defendant lacks
11 knowledge or information sufficient to form a belief about the truth of the remaining
12 allegations in said Paragraph, which also constitute legal conclusions.

13 73. Defendant lacks knowledge or information sufficient to form a belief
14 about the truth of the allegations in Paragraph 73 of the Complaint, which also
15 constitute legal conclusions.

16 74. Defendant denies the allegations in Paragraph 74 of the Complaint.

17 75. Defendant denies the allegations in Paragraph 75 of the Complaint.

18 76. Defendant denies the allegations in Paragraph 76 of the Complaint.

19 77. Defendant denies the allegations in Paragraph 77 of the Complaint.

20 **COUNT II**

21 78. Defendant incorporates by reference its responses set forth in all
22 Paragraphs above.

23 79. Defendant denies that it is a consumer reporting agency. The
24 remaining allegations in Paragraph 67 of the Complaint constitute legal conclusions
25 to which no response is required. To the extent a response is deemed to be required,
26 Defendant lacks knowledge or information sufficient to form a belief about the truth
27 of the allegations.

28 80. Defendant denies the allegations in Paragraph 80 of the Complaint.

1 81. Defendant denies the allegations in Paragraph 81 of the Complaint.

2 82. Defendant denies the allegations in Paragraph 82 of the Complaint.

3 83. Defendant denies the allegations in Paragraph 83 of the Complaint.

4 84. Defendant denies the allegations in Paragraph 84 of the Complaint.

5 85. Defendant lacks knowledge or information sufficient to form a belief
6 about the truth of the allegations in Paragraph 85 of the Complaint, which also
7 constitute legal conclusions.

8 86. Defendant denies the allegations in Paragraph 86 of the Complaint.

9 87. Defendant denies the allegations in Paragraph 87 of the Complaint.

10 88. Defendant denies the allegations in Paragraph 88 of the Complaint.

11 89. Defendant denies the allegations in Paragraph 89 of the Complaint.

12 **COUNT III**

13 90. Defendant incorporates by reference its responses set forth in all
14 Paragraphs above.

15 91. Paragraph 91 of the Complaint contains no affirmative allegations
16 against Defendant. To the extent said paragraph is deemed to contain any
17 affirmative allegations, Defendant denies them. Moreover, said paragraph contains
18 legal conclusions to which no response is required.

19 92. Paragraph 92 of the Complaint contains no affirmative allegations
20 against Defendant. To the extent said paragraph is deemed to contain any
21 affirmative allegations, Defendant denies them. Moreover, said paragraph contains
22 legal conclusions to which no response is required.

23 93. Defendant lacks knowledge or information sufficient to form a belief
24 about the truth of the allegations in Paragraph 93 of the Complaint.

25 94. Defendant denies the allegations in Paragraph 94 of the Complaint.

26 95. Defendant denies the allegations in Paragraph 95 of the Complaint.

27 **PLAINTIFF'S JURY DEMAND**

28 96. Defendant admits that Plaintiff demands a trial by jury.

1 **PLAINTIFF’S PRAYER FOR RELIEF**

2 Defendant denies that Plaintiff is entitled to any relief requested in the Prayer
3 for Relief or elsewhere in the Complaint.

4 **AFFIRMATIVE DEFENSES**

5 **FIRST AFFIRMATIVE DEFENSE**

6 As a separate, affirmative defense, Defendant alleges that Plaintiff’s
7 Complaint fails to state a claim upon which relief can be granted.

8 **SECOND AFFIRMATIVE DEFENSE**

9 As a separate, affirmative defense, Defendant alleges that Plaintiff’s
10 Complaint, and all allegations contained therein, or portions thereof, are, or may be,
11 barred by the applicable statutes of limitations.

12 **THIRD AFFIRMATIVE DEFENSE**

13 Plaintiff’s damages alleged in the Complaint were caused, or causally
14 contributed to, by the comparative fault, negligence, negligence per se, assumption
15 of the risk, and/or culpable conduct of Plaintiff and/or others, and the amount of
16 damages, if any, that may be recovered by Plaintiff from Defendant must be
17 diminished in the proportion that Plaintiff’s own conduct, and/or the conduct of
18 others, contributed to the cause of Plaintiff’s alleged damages.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 As a separate, affirmative defense, Defendant alleges that Plaintiff’s claims
21 are, or may be, barred because the claimed injuries and damages, if any, were or
22 may have been caused by the conduct of third parties, including, but not limited to,
23 the prior, intervening, or superseding conduct of third parties.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 As a separate, affirmative defense, Defendant alleges that it did not engage
26 in any conduct that was intentional, knowing, willful, reckless, malicious, wanton
27 or outrageous, and that Defendant at all times acted in good faith.

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1 **SIXTH AFFIRMATIVE DEFENSE**

2 As a separate, affirmative defense, Defendant alleges that the FCRA does not
3 apply herein, *inter alia*, because Defendant is not a consumer reporting agency and
4 did not generate a consumer report as those terms are defined under the FCRA.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 As a separate, affirmative defense, Defendant alleges that it acted in
7 compliance with the FCRA and reasonably and completely reinvestigated and
8 verified, updated, or removed all information disputed by Plaintiff.

9 **EIGHTH AFFIRMATIVE DEFENSE**

10 As a separate, affirmative defense, Defendant alleges that it maintained and
11 followed reasonable procedures to avoid violations of the FCRA and assure
12 maximum possible accuracy of the information concerning Plaintiff.

13 **NINTH AFFIRMATIVE DEFENSE**

14 As a separate, affirmative defense, Defendant alleges that Plaintiff's claims
15 are barred part or in full by the qualified immunity of 15 U.S.C. § 1681h(e).

16 **TENTH AFFIRMATIVE DEFENSE**

17 As a separate, affirmative defense, Defendant alleges that Plaintiff's claims
18 are, or may be, barred in part or in full by Uber's terms and conditions.

19 **ELEVENTH AFFIRMATIVE DEFENSE**

20 As a separate, affirmative defense, Defendant alleges that federal law
21 preempts all or some of Plaintiff's claims.

22 **TWELFTH AFFIRMATIVE DEFENSE**

23 As a separate, affirmative defense, Defendant alleges Plaintiff's claims are
24 barred part or in full to the extent that the claim or relief sought is moot.

25 **THIRTEENTH AFFIRMATIVE DEFENSE**

26 As a separate, affirmative defense, Defendant alleges that Plaintiff's claims
27 may be barred by the doctrines of unclean hands, laches, res judicata, waiver and/or
28 estoppel, or similar equitable doctrines.

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 As a separate, affirmative defense, Defendant alleges that Plaintiff's claims
3 are barred to the extent he lacks standing and/or jurisdiction to assert them.

4 **FIFTEENTH AFFIRMATIVE DEFENSE**

5 As a separate, affirmative defense, Defendant alleges, to the extent that
6 Plaintiff claims to have suffered damages, which is disputed by Defendant, Plaintiff
7 has failed to mitigate any such claimed damages.

8 **DEFENDANT'S PRAYER FOR RELIEF**

9 WHEREFORE, Defendant prays that the Complaint be dismissed with
10 prejudice, for a judgment in favor of Defendant and against Plaintiff, for all
11 attorneys' fees and costs incurred by Defendant herein, and for such further relief
12 as the Court deems just and equitable.

13
14 DATED: June 23, 2022

CARLSON & MESSER LLP

15
16 By: David J. Kaminski
17 David J. Kaminski
18 Martin Schannong
19 Calvin W. Davis
20 Attorneys for Defendant
21 SAFETY HOLDINGS, INC. dba
22 SAMBASAFETY
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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2022, a true and correct copy of the foregoing document entitled ANSWER was filed through the ECF system, which will send notification of such filing to the e-mail addresses associated with this case.

DATED: June 23, 2022

CARLSON & MESSER LLP

By: David J. Kaminski
David J. Kaminski
Martin Schannong
Calvin W. Davis
Attorneys for Defendant
SAFETY HOLDINGS, INC. dba
SAMBASAFETY